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PATENT APPLICATION

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IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Seaman, et al.

Confirmation No.: 2769

Application No.: 10/002,706

Examiner: Rosario, Dennis

Filing Date: 10/30/01

Group Art Unit: 2621

Title: Systems and Methods for Generating Digital Images Having Image Meta-Data Combined With The Image Data

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TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 07/29/05.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) $500.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

( )	one month	$120.00
( )	two months	$450.00
( )	three months	$1020.00
( )	four months	$1590.00

( ) The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account **08-2025** the sum of **$500.00**. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

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Respectfully submitted,

Seaman, et al.

By _____

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Seaman, et al.	Group Art Unit: 2621
Serial No.: 10/002,706	Examiner: Rosario, Dennis
Filed: October 30, 2001	Atty. Docket No.: 10008306-1
For: **Systems and Methods for Generating Digital Images Having Image Meta-Data Combined With The Image Data**	

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Mail Stop: Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed July 29, 2005, responding to the Final Office Action mailed April, 29, 2005.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 08-2025.

I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 4-20 stand finally rejected. No claims have been allowed. The final rejections of claims 4-20 are appealed.

IV. Status of Amendments

This application was originally filed on October 30, 2001, with twenty (20) claims. In a Response filed November 10, 2004, Applicant amended claims 4, 7, 13, 15, 16, 17, and 19, and canceled claims 1-3. In a Response filed June 14, 2005, Applicant attempted to amend claim 12 in the manner suggested by the Examiner and amend claims 16 and 18 to correct typographical errors. In an Advisory Action dated July 11, 2005, however, the Examiner refused to enter the amendments.

The claims in the attached Claims Appendix (see below) reflect the present state of Applicant's claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description ("specification") and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Embodiments according to independent claim 4 describe an image file embodied in a computer-readable medium. The image file comprises digital image data that represents an image, and image meta-data associated with the digital image data created by applying a predefined image analysis algorithm to the digital image data to identify content within the image. Applicant's specification, page 9, lines 1-10 and 12-14; page 9, lines 20-23; page 14, line 21 to page 15, line 2; Figure 3, items 304-306; Figure 4, items 400-406; Figure 6, items 602-604.

Embodiments according to independent claim 7 describe an image capture device (Figs. 1 and 2, 102). Applicant's specification, page 4, lines 19-21; page 6, lines 8-10. The image capture device comprises image capture hardware (Fig. 2, 208) configured to capture an image. Applicant's specification, page 6, lines 14-15; page 7, lines 12-14. Such device further comprises logic (Fig. 2, 214) configured for generating a digital representation of the image, the digital representation comprising image data. Applicant's specification, page 6, line 16; page 8, lines 17-22; page 9, lines 5-10. The device further comprises logic (Fig. 2, 218) configured for applying at least one predefined image analysis algorithm (Fig. 2, 216) to the digital representation of the image to identify content within the image, the at least one predefined image analysis algorithm generating image meta-data corresponding to the image content. Applicant's specification, page 9, lines 11-14; page 9, line 20 to page 10, line 5; page 10, line 13 to page 11, line 7; page 14, line 21 to page 15, line 2;

Figure 3, item 304; Figure 4, items 400-404; Figure 6, item 602. The device further comprises logic (Fig. 2, 218) configured for combining the image meta-data corresponding to the image content with the image data to define new image data. Applicant's specification, page 9, lines 1-4; page 10, lines 7-12; page 15, lines 2-6; Figure 3, items 306-310; Figure 4, item 406; Figure 6, items 604-606.

Embodiments according to independent claim 13 describe a method for generating an image file containing meta-data. The method comprises identifying a digital representation of an image, the digital representation comprising image data. Applicant's specification, page 9, lines 11-12; page 14, lines 19-20; Figure 3, item 302; Figure 6, item 600. The method further comprises applying at least one predefined image analysis algorithm to the digital representation of the image to identify content within the image, the at least one predefined image analysis algorithm generating meta-data corresponding to the image content. Applicant's specification, page 9, line 20 to page 10, line 5; page 10, line 13 to page 11, line 7; page 14, line 21 to page 15, line 2; Figure 3, item 304; Figure 4, items 400-404; Figure 6, item 602. The method further comprises combining the meta-data corresponding to the image with the image content data to define new image data. Applicant's specification, page 9, lines 1-4; page 10, lines 7-12; page 15, lines 2-6; Figure 3, items 306-310; Figure 4, item 406; Figure 6, items 604-606.

Embodiments according to independent claim 16 describe a method for searching image files having specific image meta-data. The method comprises receiving a search query comprising information related to specific image meta-data. Applicant's specification, page 15, lines 19-21; page 16, lines 11; page 19, lines 9-11; Figure 7, item 702; Figure 8, item 804; Figure 11, item 1100. The method further comprises, based on the search query, searching one or more image files for the image

meta-data specified in the search query, the image meta-data having been generated by applying a predefined image analysis algorithm to a digital representation of an image to identify content within the image. Applicant's specification, page 15, line 22 to page 16, line 1; page 16, lines 11-14; page 19, lines 13-16; Figure 7, item 704; Figure 8, item 806; Figure 11, item 1102. The method further comprises identifying one or more of the image files that comprise image meta-data that matches the image meta-data specified in the search query. Applicant's specification, page 15, line 22 to page 16, line 1; page 16, lines 11-14; page 19, lines 13-16; Figure 7, item 704; Figure 8, item 806; Figure 11, item 1102.

Embodiments according to independent claim 19 describe a method for locating an image file. The method comprises providing a search query comprising information related to specific image meta-data. Applicant's specification, page 17, lines 4-6; Figure 9, item 904. The method further comprises receiving one or more image files comprising image meta-data that matches the image meta-data specified in the search query, the image meta-data having been generated by applying a predefined image analysis algorithm to the digital representation of the image to identify content within the image. Applicant's specification, page 17, lines 6-9; page 19, lines 13-16; Figure 9, item 906; Figure 11, item 1102.

VI. Grounds of Rejection to be Reviewed on Appeal

The following ground of rejection is to be reviewed on appeal:

Claims 4-20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Liu, et al. ("Liu," U.S. Pat. No. 6,523,046).

VII. Arguments

The Appellant respectfully submits that Applicant's claims are not anticipated under 35 U.S.C. § 102 and respectfully requests that the Board of Patent Appeals overturn the final rejection of those claims at least for the reasons discussed below.

Claim Rejections - 35 U.S.C. § 102(e)

Claims 4-20 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Liu, et al. ("Liu," U.S. Pat. No. 6,523,046). Applicant respectfully traverses this rejection.

It is axiomatic that "[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration." *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e).

In the present case, not every feature of the claimed invention is represented in the Lui reference. Applicant discusses the Lui disclosure and Applicant's claims in the following.

A. The Lui Disclosure

Lui discloses an infrastructure and method for supporting generic multimedia metadata. Lui, Patent Title. In particular, as is stated by Lui:

> The present invention comprises an infrastructure and method for providing format-independent access by applications to multimedia file metadata originally provided in any of a set of supported formats. More particularly, in accordance with the present invention, a metadata abstraction interface is interposed between multimedia files and

applications that seek to read metadata associated with the multimedia files.

[Lui, column 2, lines 50-57]

Later in the disclosure, Lui describes his invention in greater detail:

> Having described exemplary computing environments in which the present invention is carried out, attention is directed to FIG. 2 that schematically depicts an illustrative embodiment of a multimedia abstraction interface architecture. In general, a digital image metadata abstraction interface 210 depicted in FIG. 2 provides an extensible framework. The framework includes an extensible set of coder/decoder pairs 212 for processing image file metadata from image files 214 of any supported metadata format. Application programs 216 indirectly access coder/decoder pairs 212 via application programming interfaces (API's) 218. The primary components of the abstraction interface architecture and the component interactions are described herein below.
>
> The digital image metadata abstraction interface 210 provides indirect access by applications (including content management utilities and tools), via a set of interface functions, to image metadata stored in any supported file format. *More particularly, the abstraction interface 210 provides an abstracted metadata access interface that insulates applications (and their users) from particular image file metadata formats. The abstract interface enables programs to submit requests to a simple and consistent interface, provided in the form of API's 218, to access metadata without knowledge of a particular metadata file format.*
>
> [Lui, column 6, line 64 to column 7, line 7 (emphasis added)]

Although Lui describes an interface that is configured to manage files, including metadata, Lui does *not* describe a non-human process in which such meta-data is created

by applying an algorithm, or an image capture device that is capable of generating meta-data through image analysis.

B. Applicant's Claims

Lui fails to teach several of Applicant's claim limitations. Applicant discusses some of those claim limitations in the following.

1. Claims 4-6

Applicant's independent claim 4 provides as follows (emphasis added):

> 4. An image file embodied in a computer-readable medium, comprising:
>
> digital image data that represents an image; and
>
> image meta-data associated with the digital image data ***created by applying a predefined image analysis algorithm to the digital image data to identify content within the image.***

Simply stated, Lui says *nothing* about image meta-data that was "created by applying a predefined image analysis program" to digital image data to "identify content within the image". Although Lui discusses at length the management of existing metadata, Lui does not describe a process in which meta-data is generated through application of an image analysis program. The Lui disclosure is devoid of such a teaching.

To the contrary, it appears that the "metadata" to which Lui is referring pertains to data entered by the user. For example, in column 1, lines 35-38, Lui states that "*The user may designate the metadata* at the time of initial recording via a user input interface on a recording device. Alternatively, *a user provides metadata* at a later time by means

of a multimedia file editor application program" (emphasis added). Moreover, although Lui identifies several specific examples of metadata, this data is not related to image content. For instance, Lui states in column 7, lines 47-48, that "metadata" may include "camera model, focal length used, light level, etc."

For at least the above reasons, Lui clearly does not anticipate claim 4, or claims 5 and 6 which depend therefrom.

In the Advisory Action, the Examiner reiterates his position that Lui teaches creating meta-data by applying a predefined image analysis program to digital image data to identify content within the image (see Advisory Action, page 2). Specifically, the Examiner argues that Lui teaches such meta-data creation in column 1, line 31 and Figure 7, item 510. Applicant disagrees. Column 1, line 31 of the Lui reference, which describes the prior art and not Lui's invention, provides as follows:

> Multimedia metadata information is generally created or updated when a multimedia file is created or edited, and a number of different sources provide such metadata.
> [Lui, column 1, lines 31-32]

Clearly, this excerpt does not disclose creating meta-data by applying a predefined image analysis program to digital image data. Figure 7, item 510 states the following:

> Create and store generic metadata properties corresponding to image file
> [Lui, Figure 7, item 510]

Regarding this teaching, Lui is describing processing and creation of metadata "properties," *not* the creation of meta data itself. As is described in column 15:

> Therefore, if at step 508 the decoder function called by the API determines that the generic image metadata is not presently stored in the metadata cache 220, the control passes to step 510. *During step 510, the decoder process the entire set of metadata properties in the particular image file and stores the results in set of generic metadata properties in the metadata cache 220.*
> [Lui, column 15, lines 32-38 (emphasis added)]

Accordingly, column 1 and Figure 7 do not provide support for the argument that Lui teaches creating meta-data by applying a predefined image analysis program to digital image data to identify content within the image. Indeed, even if one assumed, for purposes of argument, that Lui was describing creation of meta-data, such meta-data would not "identify content within the image" as is required by claim 4.

The Examiner further argues in the Advisory Action that Lui discusses "existing" meta-data and, for this reason, Applicant's claim limitation is purportedly anticipated. To the contrary, that the meta-data already exists in Lui's disclosure proves Applicant's case that Lui does not teach creation of meta-data. Specifically, Lui presumes that the meta-data already exists. Lui's system acts on such meta-data, but does not create it.

On page 3 of the Advisory Action, the Examiner argues that Lui describes applying a predefined image analysis program to identify content within the image, and cites column 7, line 66 for support. Column 7, line 66 provides as follows:

> The electronic photo album provides a set of utilities enabling users to arrange their photo image files in a sect of albums arranged according to any one of several possible grouping criteria supported by the wide variety of metadata types including time and color content.
> [Lui, column 7, lines 62-66].

Although it is true that Lui mentions "color content" as a form of metadata, what Lui does not say is that the color content metadata is "created by a predefined image analysis program". Therefore, as is mentioned above, Lui suggests that the metadata may be created by the user. Furthermore, Lui's cryptic reference to "color content" may not be a reference to content within the image. For example, the "color content" may be a reference to a color filter used on the camera to capture the image. Regardless, Lui's disclosure does not arise to the level of an actual teaching of meta-data that identifies "content within the image".

As a further matter, Applicant notes that the claims that depend from claim 4 comprise additional limitations that are not taught by Lui. For example, regarding claim 6, Lui does not teach a "face recognition vector algorithm". Indeed, as is noted above, Lui discloses no algorithm whatsoever that identifies content within an image.

2. Claims 7-12

Applicant's independent claim 7 provides as follows (emphasis added):

> 7. An ***image capture device***, comprising:
> image capture hardware configured to capture an image; and
> logic configured for:
> generating a digital representation of the image, the digital representation comprising image data;
> ***applying at least one predefined image analysis algorithm*** to the digital representation of the image ***to identify content within the image***, the at least one predefined image analysis algorithm ***generating image meta-data corresponding to the image content***; and
> combining the image meta-data corresponding to the image content with the image data to define new image data.

Regarding claim 7, Lui fails to teach logic for "applying at least one predefined image analysis algorithm . . . to identify content within the image" so as to result in "generating image meta-data corresponding to the image content" for reasons described in the foregoing. Claim 7 and its dependents are allowable over Lui for at least this reason.

As a further point, Lui clearly does not teach that the logic is provided in an "image capture device". Instead, Lui only discusses an interface 210 that is executed on a computer 110. The computer 110 is described in detail in columns 4-6 and clearly is not an "image capture device" (see also Figure 1).

In the Advisory Action, the Examiner argues that Lui does teach an image capture device that performs the functions recited in claim 7, and cites column 1, line 51 and column 4, line 16. Regarding column 1, line 51, that portion of the Lui reference is a description of the prior art. Therefore, aspects of Lui's invention described in the Detailed Description cannot be attributed to Lui's identified prior art camera. Moreover, that portion of the reference provides:

> Multimedia file metadata is becoming more important as users increase their reliance upon digital storage media to store vast amounts of photographs and audio/visual recordings rendered by digital cameras and other digital multimedia recording equipment.
> [Lui, column 1, lines 49-53]

Clearly, this excerpt merely describes the need for metadata in light of the many photographs that can be captured with a digital camera or similar device.

Regarding column 4, line 16, Lui states:

> Other well known computing systems, environments, and/or configurations that may be suitable for use with the invention include, but

are not limited to, personal computers, server computers, hand-held or laptop devices, multiprocessor systems, microprocessor-based systems, programmable consumer electronics, network PCs, minicomputers, mainframe computers, distributed computing environments that include any of the above systems or devices, and the like.
[Lui, column 4, lines 13-21]

Clearly, Lui says nothing about an image capture device in this excerpt, much less one that is able to perform as claimed.

3. Claims 13-15

Applicant's independent claim 13 provides as follows (emphasis added):

13. A method for generating an image file containing meta-data, the method comprising:

identifying a digital representation of an image, the digital representation comprising image data;

applying at least one predefined image analysis algorithm to the digital representation of the image to identify content within the image, the at least one predefined image analysis algorithm generating meta-data corresponding to the image content; and

combining the meta-data corresponding to the image with the image content data to define new image data.

Regarding claim 13, Lui does not teach "applying at least one predefined image analysis algorithm to the digital representation of the image to identify content within the image, the at least one predefined image analysis algorithm generating meta-data corresponding to the image content" for reasons described above. Claim 13, as well as claims 14 and 15, are allowable over Lui for at least this reason.

4. Claims 16-18

Applicant's independent claim 16 provides as follows (emphasis added):

> 16. A method for searching image files having specific image meta-data, the method comprising:
>
> receiving a search query comprising information related to specific image meta-data;
>
> based on the search query, searching one or more image files for the image meta-data specified in the search query, ***the image meta-data having been generated by applying a predefined image analysis algorithm to a digital representation of an image to identify content within the image***; and
>
> identifying one or more of the image files that comprise image meta-data that matches the image meta-data specified in the search query.

Regarding claim 16, Lui does not teach a method for searching image files comprising searching one or more image files for image meta-data that was "generated by applying a predefined image analysis algorithm to a digital representation of an image to identify content within the image" for reasons described in the foregoing. Claim 16, and claims 17 and 18, are allowable over Lui for at least this reason.

5. Claims 19 and 20

Applicant's independent claim 19 provides as follows (emphasis added):

> 19. A method for locating an image file, the method comprising:
>
> providing a search query comprising information related to specific image meta-data; and

receiving one or more image files comprising image meta-data that matches the image meta-data specified in the search query, ***the image meta-data having been generated by applying a predefined image analysis algorithm to the digital representation of the image to identify content within the image***.

Finally, regarding claim 19, Lui does not teach a method for locating an image file that comprises receiving an image file comprising meta-data that matched meta-data specified in a search query, the image meta-data "having been generated by applying a predefined image analysis algorithm to the digital representation of the image to identify content within the image" for reasons described above. Claims 19 and 20 are allowable over Lui for at least this reason.

C. Summary

Due to the shortcomings of the Lui reference described in the foregoing, Applicant respectfully asserts that Lui does not anticipate Applicant's claims. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn.

VII. Conclusion

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

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MarianneRoland
Signature

Claims Appendix under 37 C.F.R. § 41.37(c)(1)(viii)

The following are the claims that are involved in this Appeal.

4. An image file embodied in a computer-readable medium, comprising:

digital image data that represents an image; and

image meta-data associated with the digital image data created by applying a predefined image analysis algorithm to the digital image data to identify content within the image.

5. The image file of claim 4, wherein the image meta-data comprises at least one searchable keyword.

6. The image file of claim 4, wherein the predefined image analysis algorithm comprises a face recognition vector algorithm.

7. An image capture device, comprising:

image capture hardware configured to capture an image; and

logic configured for:

generating a digital representation of the image, the digital representation comprising image data;

applying at least one predefined image analysis algorithm to the digital representation of the image to identify content within the image, the at least one predefined image analysis algorithm generating image meta-data corresponding to the image content; and

combining the image meta-data corresponding to the image content with the image data to define new image data.

8. The image capture device of claim 7, wherein the logic is software and further comprising a processing device for implementing the logic.

9. The image capture device of claim 7, wherein the logic is further configured for storing the new image data.

10. The image capture device of claim 7, further comprising a network interface device configured for communication with a communications network and wherein the logic is further configured for providing the new image data to the communications network.

11. The image capture device of claim 7, further comprising an interface configured for direct communication with a computer and wherein the logic is further configured for providing the new image data to the computer.

12. The image capture device of claim 7, wherein the image meta-data comprises at lest one searchable keyword.

13. A method for generating an image file containing meta-data, the method comprising:

identifying a digital representation of an image, the digital representation comprising image data;

applying at least one predefined image analysis algorithm to the digital representation of the image to identify content within the image, the at least one predefined image analysis algorithm generating meta-data corresponding to the image content; and

combining the meta-data corresponding to the image with the image content data to define new image data.

14. The method of claim 13, wherein the meta-data comprises at least one searchable keyword.

15. The method of claim 13, wherein identifying a digital representation of the image involves receiving the image data.

16. A method for searching image files having specific image meta-data, the method comprising:

receiving a search query comprising information related to specific image meta-data;

based on the search query, searching one or more image files for the image meta-data specified in the search query, the image meta-data having been generated by applying a predefined image analysis algorithm to the digital representation of the image to identify content within the image; and

identifying one or more of the image files that comprise image meta-data that matches the image meta-data specified in the search query.

17. The method of claim 16, further comprising providing the one or more image files that match the specific image meta-data in the search query.

18. The method of claim 16, wherein the image meta-data and the search query comprises at least one searchable keywords.

19. A method for locating an image file, the method comprising:

providing a search query comprising information related to specific image meta-data; and

receiving one or more image files comprising image meta-data that matches the image meta-data specified in the search query, the image meta-data having been generated by applying a predefined image analysis algorithm to the digital representation of the image to identify content within the image.

20. The method of claim 19, wherein the image meta-data and the search query comprises at least one searchable keyword.

Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Related Proceedings Appendix under 37 C.F.R. § 41.37(c)(1)(x)

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.